

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the workman Shri Parveen Kumar, and the management of M/s Sheep and Wool Development Haryana, Bhiwani, to this Court, for adjudication, —*vide* Haryana Government Gazette Notification No. 279/4—23, dated 4th August, 1986:—

Whether the termination of services of Shri Parveen Kumar is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was appointed as a Shepherd in the District Rural Development Agency, Sirsa on dated 13th May, 1983 and there after his services were transferred to the Assistant Director, Sheep and Wool Development, Bhiwani and he was posted as a Shepherd in a village Ganga, Telisil and District Sirsa and that services of the petitioner were terminated by the Incharge Sheep and Wool, Extension Centre, Canda on 22nd May, 1985 and that order of termination was unlawful and illegal. So, he has prayed for reinstatement with continuity of services and full back wages.

3. Since this reference was made through Sri V. K. Bansal, Advocates, so, notice was sent to him, who appeared but later on made a statement that the petitioner is not coming forth to prosecute this reference. So, this reference is dismissed for non-prosecution and answered accordingly with no order as to cost.

Dated 20th November, 1986.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Comp. Court, Sirsa.

Endst. No. 109-86/1741, dated the 4th December, 1986.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,
Comp. Court, Sirsa.

No. 9/6/86-6Lab./11293.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s (i) Executive Engineer, Construction Division H.S.E.B. Model Town, Ambala City (ii) Secretary, H. S. E. B. Chandigarh:—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 124 of 1985

SHRI AMAR NATH C/O SHRI RAJESHWAR NATH TIMBER MARKET,
AMBALA CANTT, AND THE MANAGEMENT OF THE M/S
EXECUTIVE ENGINEER CONSTRUCTION DIVISION H. S. E. B.
MODEL TOWN, AMBALA CITY (II) SECRETARY, H. S. E. B.
CHANDIGARH.

Present :

Shri Rajeshwar Nath for workman.
Shri P. S. Sharma, for respondent.

AWARD

The Hon'able Governor of Haryana in the exercise of powers conferred,—*vide* clause (c) of sub-section (1) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Amar Nath, workman and M/s. H. S. E. B. etc, to this Court. The terms of reference are as under :—

Whether termination of services of Shri Amar Nath workman is just and correct, if not, to what relief is he entitled?

Workman through his statement of claim alleged that he joined services of respondent on 5th May, 1980 on daily wages at the rate of Rs. 14 per day. His services were terminated on 31st March, 1984 in violation of section 25 (F) of Industrial Disputes Act, 1947. He further alleged that at the time of his termination many junior persons to the petitioner were retained in service and they are still in the employment of respondent-management namely Sohan Lal, Tara Chand and Inder Paul. He also alleged that seniority list was wrongly prepared on the basis of number of working days when it should have been prepared from the date of joining. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that petitioner was working on daily wages basis. Due to paucity of work in the respondent-management the services of workman were terminated in compliance of provisions of section 25 (F) strictly according to the seniority basis. The claim of the workman is false and baseless it be rejected.

Workman filed replication through which he controverted the averments made by the respondent-management in their written statement.

On the pleadings of the parties the following issues were framed for the just decision of the dispute.

Issues :

1. Whether termination order regarding services of Amar Nath workman is illegal, if so its effect ?
2. Whether workman is estopped from filing demand notice by his own act and conduct as alleged.
3. Relief.

I have heard Shri Rajeshwar Nath for workman and Shri P. S. Sharma for respondent-management and have perused the oral and documentary evidence placed on the file. My issue wise findings are as under :—

Issue No. 1 :

In support of this issue management examined Shri Balmukand who stated that workman was employed on daily wages in the respondent-management. Seniority list was prepared by the respondent-management. Copy of the same is Ex-M—1. On the basis of actual working days and not on the basis of date of joining service of the respondent and thus workman, Shri Amar Nath figured at Sr. No. 120 due to paucity of work. Services of all the daily wagers from 119 onwards were terminated. Before termination notice was issued. Shri Amar Nath refused to accept it. There is report of S. D. O. to this effect while he accepted the retrenchment compensation.

Workman appeared as AW—1 he deposed that no notice was given to him. However, he received retrenchment compensation.

In view of the above evident the main fact is evidence that seniority list of daily wagers was prepared on the basis of number of actual working days which was wrong. In fact, seniority list should have been prepared as per the date of joining and in other words, seniority should have been counted from the date of joining and not from the actual number of working days. If the seniority list would have been prepared on the date of joining in those circumstances services of workman Amar Nath would have not been terminated. So on this very score termination order is unjust and incorrect.

Workman in his statement nowhere stated that he did not gainfully employed from 31st March, 1984 up till the day of appearing in the witness box i.e. 25th February, 1986, so he is not entitled to back wages. However he is entitled to the benefit of continuity of service. So this issue is accordingly decided, in favour of workman against the respondent-management.

Issue No. 2 :

In fact there is no evidence from the side of the respondent-management, nor this issue was pressed at the time of arguments so there is nothing on the file to establish that the workman was estopped from filing demand notice by his own act and conduct, so, this issue is also decided, in favour of workman against the management.

Issue No. 3 Relief :

For the fore going reasons on the basis of my finding on issue No. 1 and 2 I hold that termination of services of Shri Amar Nath workman is unjust and incorrect. He is entitled to reinstatement with the relief of continuity in service without back wages. I pass award regarding the controversy between the parties accordingly.

V. P. CHAUDHARY,

Dated the 12th November, 1986.

Presiding Officer,
Labour Court,
Ambala.

Endst. No. 3079, dated the 14th November, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court,
Ambala.

No. 9/6/86-6Lab/11299.—In pursuance of the Provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Executive Engineer 'OP' Haryana State Electricity Board, Shahabad markanda (Kurushetra) :—

IN THE COURT OF V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 222 of 1984

Misc. 15/86

SHRI SURINDER KUMAR S/O SHRI SADHU RAM C/O DR. SURINDER KUMAR SHARMA, INTUC OFFICE, RLY ROAD, JAGADHARI AND THE MANAGEMENT OF THE MESSRS EXECUTIVE ENGINEER 'OP' HARYANA STATE ELECTRICITY BOARD, SHAHABAD MARKANDA (KURUKSHETRA)

Present :

None for workman.

None for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Surinder Kumar and Messrs H.S.E.B. etc., originally to Labour Court Faridabad. The terms of the reference are as under:—

"Whether termination of services of Shri Surinder Kumar, is just and correct, if not, to what relief is he entitled?"

In April, 1984 Labour Court was created at Ambala so reference was received by transfer.

Workman through his demand notice alleged that he was employed on monthly basis in Shahabad Division. His services were terminated on 31st March, 1982 in violation of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that applicant has no *locus standi* to file the demand notice because relationship of master and servant between the parties do not exist. Provisions of section 25 (F) are not applicable in the present case. Claimant was working

on daily wages against the existing work. He was habitual wilfull absentee. He left the service of the board of his own without any intimation to the respondent. So question of retrenchment of the claimant does not arise.

Workman filed replication through which he controverted the contentions of the respondent-management taken in the written statement.

On the pleadings of the parties issues were framed. Case was fixed for workman evidence but neither workman evidence but neither workman nor his A. R. appeared. Shri Surinder Sharma, Authorised Representative of the workman appeared in court and then he left did not appear on behalf of the workman, so there is no evidence on behalf of the workman in support of his case. so reference is dismissed in default.

V. P. CHAUDHARY,

Dated the 13th November, 1987.

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 3080, dated the 14th November, 1986.

Forwarded, (Four copies), to the Financial Commissioner, & Secretary to Government, Haryana Labour and Employment Department Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6.Lab/11301.—In pursuance of the Provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Gandu Ram Harbans Lal, Metal works, Mukerji Park, Jagadhri :—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 58 of 1986

SHRI CHHOTE SINGH, WORKMAN, S/O SHRI GAYA DIN SINGH C/O DR. SURINDER SHARMA, RLY ROAD JAGADHRI AND THE MANAGEMENT OF THE MESSRS GANDU RAM, HARBANS LAL, METAL WORKS, MUKERJI PARK, JAGADHRI

Present :

Shri Surinder Sharma, for the workman.

Shri S. Bindra, for the respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947, referred dispute between Shri Chhote Singh, workman and Messrs Gandu Ram, Harbans Lal, Metal works, Mukerji Park, Jagadhri to this Court. The terms of reference are as under :—

"Whether termination of services of Shri Chhote Singh, is just and correct, or whether the workman has abondoned his job of his own, if so to what effect."

Workman Chhote Singh through his demand notice alleged he served the respondent-management for seven years as a Pressman on 10th December, 1985 his services were terminated in violation of section 25 (F) of Industrial Disputes Act. He prayed for his reinstatement with continuity in service and with full beck wages.

Respondent management appeared contested the dispute and contended that workman had worked with the respondent for few days on daily wages in the year 1982-83 for 78 days, in 1983-84 for 10 days, in 1984-85 for 94 days and after December, 1984 he never turned up in the premises of respondent to seek employment. In fact his services were never terminated, he left his job wilfully. So he is not entitled to the relief claimed for.

On the pleadings of the parties issues were framed. The case was fixed for workman evidence. Workman absented himself. Shri Surinder Sharma for workman and Shri S. Bindra for respondent management appeared. Shri S. Bindra stated that parties have settled their dispute, none is willing to pursue this case. Shri Surinder Sharma left the court by saying that he does not want to pursue on behalf of the workman. Accordingly, no evidence could be produced by the workman in support of his case. So the reference is answered in the negative against the workman in the absence of any evidence.

V. P. CHAUDHARY,

Dated the 13th November, 1986.

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 3082, dated the 14th November, 1986.

Forwarded (Four Copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6 Lab./11302.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of (i) State Transport Commissioner, Haryana, Chandigarh, (ii) General Manager, Haryana Roadways, Ambala Cantt.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER,
LABOUR COURT, AMBALA

Reference No. 259 of 1985

SHRI BACHAN SINGH S/O SHRI NATHA SINGH, C/O SHRI TEJINDER SINGH
AND THE MANAGEMENT OF THE STATE TRANSPORT
COMMISSIONER, HARYANA, CHANDIGARH, (ii) GENERAL
MANAGER, HARYANA ROADWAYS, AMBALA CITY

Present:—

None for workman.

Shri Rajinder Mohan for respondent..

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Bachan Singh and General Manager, Haryana Roadways, Ambala City etc., to this Court. The terms of the reference are as under :—

"Whether termination of services of Shri Bachan Singh, is just and correct if not to what relief is he entitled?"

Workman through his demand-notice alleged that he served the respondent-management for 6½ months at the rate of 650. Thereafter his services were terminated arbitrarily. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that workman was appointed as a Conductor on 13th January, 1981 purely temporary and *ad hoc* basis. Services of workman were discontinued on 19th October, 1981 being no longer required. He did not serve the management for 240 days, so there is no violation of provisions of section 25(F). So this reference be answered, in favour of respondent.

On the pleadings of the parties issues were framed. The reference was fixed for workman evidence. Seven opportunities were afforded to workman to lead evidence in support of his case. But he did not turn up to pursue his claim. Today neither workman nor his A. R. present. Shri Rajinder Mohan, represented the management. In view of the absence of workman and his A.R. as well as evidence the reference, in question, is answered against the workman because he has failed to adduce any evidence. Moreover, as per his own admission he served the respondent-management only for 6½ months did not complete service of 240 days, so provisions of section 25 (F) of Industrial Disputes Act, 1947 are not attracted. So this reference is answered against the workman. I pass award regarding the dispute in hand accordingly.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 3083, dated 14th November, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab./11303.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management [of Executive Engineer, 'OP' H.S.E.B., Shahabad Makanda, (Kurukshetra)]

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 223 of 1984

**SHRI RAJ KUMAR WORKMAN S/O SHRI PHOOL CHAND C/O DR. SURINDER KUMAR SHARMA, INTUC OFFICE, RAILWAY ROAD, JAGADHRI AND THE MANAGEMENT
OF THE EXECUTIVE ENGINEER, 'OP' H.S.E.B., SHAHABAD
MAKANDA (KURUKSHETRA)**

Present.—

None for workman.

None for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (c) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Raj Kumar, and Messrs Xcn 'OP' H.S.E.B., Shahabad to Labour Court, Faridabad. The terms of the reference are as under :—

"Whether termination of services of Shri Raj Kumar, workman is just and correct; if not ? to what relief is he entitled ?"

On constitution of Labour Court at Ambala in April, 1984 the reference is received by transfer.

Workman through his demand notice alleged that he was employed in the service of respondent management and worked for two years on 1st July, 1983. His services were dispensed with in violation of section 25(F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent management appeared contested the dispute and contended that there is no relationship of employer and employee between the parties. The reference is in competent in view of section 25(N) of Industrial Disputes Act. Workman was working in the respondent management on daily wages. His services were never regularised, thereafter he abandoned the job of the respondent management wilfully of his own. His services were never dispensed with by the management.

On the pleadings of the parties issues were framed. Reference was fixed for workman evidence. Many opportunities were given to the workman to lead evidence. Today the case was fixed for workman evidence, but workman did not appear nor he summoned any evidence. Shri Surinder Sharma, Ld. A.R. of the workman appeared, but he left the Court by saying that he does not want to appear since the workman had not turned up. None was present from the side of the respondent management, so in the absence of the evidence the reference is replied against the workman. I pass my award regarding the controversy between the parties accordingly.

V. P. CHAUDHARY,

Dated, the 13th November, 1986.

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 3084, dated the 14th November, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6 Lab./11304.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of (i) State Transport Commissioner, Haryana, Chandigarh, (ii) General Manager, Haryana Roadways, Kaithal.

**IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA**

Reference No. 267 of 1985

SHRI NATHU SINGH S/O SHRI SOHAN SINGH C/O TRADE UNION COUNCIL, PATIALA AND THE MANAGEMENT OF THE STATE TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH, (II) GENERAL MANAGER, HARYANA ROADWAYS, KAITHAL.

Present :

None for workman.

Shri A. R. Goyal for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Nathu Singh and G. M. Haryana Roadways, Kaithal to this court. The terms of the reference are as under :—

"Whether termination of services of Shri Nathu Singh, is just and correct ? If not, to what relief is he entitled?"

Workman alleged that he had been in the service of respondent management for seven years. On 1st February, 1982 his services were terminated in violation of section 25 (F) of Industrial Disputes Act. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent management contested dispute and contended that the service contract of Nathu Singh Workman had expired on 31st January, 1985 which was not renewed on words, so there is no retrenchment of the services of the workman in view of section 2-(oo) (bb) of the Industrial Disputes Act. So there is no violation of section 25 (F) of Industrial Disputes Act.

On the pleadings of the parties issues were framed. The reference was fixed for management evidence but today neither workman nor his A. R. appeared, so the reference is dismissed in default.

Dated, the 14th November, 1986.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 3084, dated the 14th November, 1986.

Forwarded (two copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab./11305.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of (i) Transport Commissioner, Haryana, Chandigarh (ii) General Manager, Haryana Roadways, Kaithal.

**IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA**

Reference No. 277 of 1985

SHRI RAM BHAJ S/O SHRI KALI RAM C/O TRADE UNION COUNCIL,
PATIALA AND THE MANAGEMENT OF THE TRANSPORT
COMMISSIONER, HARYANA CHANDIGARH. (II)
GENERAL MANAGER, HARYANA ROADWAYS, KAITHAL

Present:

None for workman.

Shri A R. Goyal, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Ram Bhaj workman and General Manager, Haryana Roadways, Kaithal to this Court. The terms of the reference are as under : —

Whether termination of services of Shri Ram Bhaj is just and correct, if not, to what relief is he entitled ?

Workman through his statement of claim alleged that he had been in the service of respondent management for four years. His services were terminated on 1st February, 1985, in violation of section 25(F) of Industrial Disputes Act. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent management contested the dispute and contended that, in fact, the contract of service between the parties was up to 31st January, 1985 thereafter; the contract of service of workman was not renewed by the management, so there is no retrenchment of the services of the workman in view of section 2 (oo) (bb) of the Industrial Disputes Act. Hence there is no violation of section 25 (F) of Industrial Disputes Act, 1947. It was further contended that workman is not entitled to the relief claimed for.

On the pleadings of the parties issues were framed. Reference was fixed for management evidence. But neither workman nor his A. R. appeared, while management was represented by Shri A. R. Goyal. Hence the reference is dismissed in default.

Dated 14th November, 1986.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endst. No. 3094, dated 14th November, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab./11306.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947, (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s General Manager, Haryana Roadways, Yamuna Nagar.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 357 of 1984

(Old No. 165 of 1982)

SHRI MOHINDER SINGH, WORKMAN AND THE MANAGEMENT OF THE
MESSRS GENERAL MANAGER, HARYANA ROADWAYS, YAMUNA NAGAR

Present—

None, for workman.

Shri Rama Kant, for respondent.

ORDER/AWARD

This order shall dispose of an application for *ex parte* award passed by Presiding Officer, Labour Court, Faridabad, in Reference No. 165/82. Respondent management filed an application that the Reference was decided in *ex parte*, in favour of workman on 23rd December, 1982. The Law Officer of the respondent management Shri Anant Ram had been transferred to Jind who did not guide the another person properly, nor successor of Shri Anant Ram was well acquainted with the court cases, so he could not conduct the cases properly and the management was proceeded *ex parte*, so it was prayed that *ex parte* award be set aside. And respondent management be allowed to contest the reference on merits. This application of General Manager, Haryana Roadways, Yamuna Nagar, is accompanied

with the affidavit of Shri Varinder Kumar Varma, General Manager, Haryana Roadways, Yamuna Nagar. Notice of this application was served upon the workman Mohinder Singh who refuted the contentions of management. It was contended that G. M., Haryana Roadways, Depot Yamuna Nagar, should have deputed as competent person to conduct the court cases in place of Shri Anant Ram not deputing an competent person is fault of the General Manager and the application is a belated one.

On this application the following issues were framed:—

Issues:

- (1) Whether there are sufficient ground to set aside *ex parte* award, if so, its effect ? OPA
- (2) Relief.

The application was fixed for 21st May, 1986, for management evidence but neither any evidence was summoned or produced. It was adjourned for 20th June, 1986, at cost of Rs. 20 thereafter management evidence was closed. It was posted for evidence of the workman for 19th September, 1986 and 4th November, 1986, but on 4th November, 1986, neither workman nor his A.R. appeared, so workman was proceeded *ex parte* after going through the facts from the application and evidence of the management I set aside the *ex parte* award because the management filed its application coupled with an affidavit of General Manager, Haryana Roadways, Depot Yamuna Nagar, who very clearly submitted that on the transfer of Law Officer, Shri Anant Ram the another person Shri R. C. Sood could not handle the cases of the management properly because he was a new man and not an expert in conducting court cases. So due to that fact *ex parte* proceeding's were taken up against the management and an *ex parte* award was passed. This affidavit of General Manager, Haryana Roadways, Yamuna Nagar, was not rebutted or challenged by a counter affidavit by the workman. So it goes unchallenged hence the prayer of the management has to be accepted and *ex parte* award has to be set aside. Since neither workman nor his Authorised Representative appeared to pursue the dispute, so the reference in hand Shri Mohinder Singh v/s Messrs Haryana Roadways, Yamuna Nagar, is dismissed in default.

V. P. CHAUDHARY,

Dated the 4th November, 1986.

Presiding Officer,
Labour Court, Ambala.

Endst. No. 2971, dated 7th November, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

No. 9/6/86-6Lab./11308.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s Sagar Electricals, 7, Gobind Nagar, Ambala Cantt.

**IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA**

Reference No. 66 of 1986

**SHRI RAM CHANDER, SON OF SHRI HARI RAM, H. NO. 2, LAJWANTI COLONY, NEAR
RAM BAGH, AMBALA CANTT AND THE MANAGEMENT OF THE MESSRS
SAGAR ELECTRICALS, 7, GOBIND NAGAR, AMBALA CANTT**

Present —

Shri Janak Raj Sharma, for workman.

Shri Siri Ram Rangray, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of the powers conferred,—vide clause (c) of sub-section (1) of section 10 of Industrial Disputes Act, 1947, referred dispute between the Shri Ram Chander and Messrs Sagar Electricals, Ambala Cantt, to this court. The terms of the reference are as under :—

Whether termination of services of Shri Ram Chander, workman, is just and correct, or he has himself abandoned his job by way of absenting from his duty, if so, to what relief is he entitled ?

Workman through his demand notice alleged that he joined the respondent-management as a Coil Winder in the year 1978 and had been performing his duties to the best of his ability and services were terminated on 7th December, 1985. At that time he had been drawing Rs 470 P. M. He further alleged that he served the respondent-management more than 240 days, while his services were terminated in violation of section 25(F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with full back wages and with continuity of service.

Notice of this application was served upon the respondent-management. It contested the dispute and contended that services of workman were never terminated by the management on 7th December, 1985, but the workman himself wilfully abandoned his services, so he is not entitled to reinstatement with continuity in service as prayed for. Management issued a letter to workman dated 31st December, 1985, with the direction that he should join his duty within five days but the workman did not respond to that letter and he continuously wilfully remained away from his duty. Thus he himself abandoned his job.

Workman filed replication through which he controverted the contentions of the respondent-management.

On the pleadings of the parties issues were framed. During the pendency of trial of this dispute the parties reached at an amicable settlement. According to this settlement workman received a sum of Rs 2,000 in full and final settlement of all the dues including wages, wages for overtime, bonus and gratuity. At the time of his resignation it was also agreed by him that after that receipt he will not be entitled for any dues whatsoever.

In view of this compromise Ex-C-1 dispute between the parties stands disposed of. I pass award regarding the controversy between the parties accordingly.

Dated the 3rd November, 1986.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 2969, dated the 7th November, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

The 9th February, 1987

No. 9/3/87-6Lab./61.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Industrial and Allied Products Corporation, Plot No. 45, Sector 6, Faridabad.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 356 of 1986
between

SHRI GIRRAJ, WORKMAN AND THE RESPONDENT-MANAGEMENT OF
M/S INDUSTRIAL AND ALLIED PRODUCTS CORPORATION, PLOT
NO. 45, SECTOR 6, FARIDABAD

Present—

Shri K. L. Sharma, for the workman.

Shri K. P. Aggarwal, for the respondent-management.

AWARD

This reference under section 10(1)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947), as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/FD/50/86/35487-92, dated 23rd September, 1986, to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Girraj, workman and the respondent-management of M/s Industrial and Allied Products Corporation, Plot No. 45, Sector 6, Faridabad. Accordingly, it has been registered as reference No. 356 of 1986.

2. Shri K. P. Aggarwal appearing on behalf of the respondent has produced on file photostat copies of settlement and receipt also to the effect that matter in dispute has since been settled with the workman. To this effect he has made statement also. Worker has not turned up dispute of adjournment granted in the case and as such it is presumed that he has settled the matter in dispute and received the payment. The reference is accordingly answered against the workman.

A. S. CHALIA,

Dated 3rd December, 1986.

Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 3115, dated 17th December, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

A. S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.

No. 9/3/87-6Lab/62.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Industrial and Allied Products Corporation, Plot No. 45, Sector 6, Faridabad.

**IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD**

Reference No. 354 of 1986

between

**SHRI SOHAN LAL, WORKMAN AND THE RESPONDENT-MANAGEMENT OF
M/S INDUSTRIAL AND ALLIED PRODUCTS CORPORATION, PLOT
NO. 45, SECTOR 6, FARIDABAD**

Present:—

Shri K. L. Sharma, for the workman.

Shri K. P. Aggarwal, for the respondent-management.

AWARD

This reference under section 10(1) (c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/FD/50/86/35501-506, dated 23rd September, 1986, to adjudication upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Sohan Lal, workman and the respondent-management of M/s Industrial and Allied Products Corporation, Plot No. 45, Sector 6, Faridabad. Accordingly it has been registered as reference No. 354 of 1986.

2. Shri K. P. Aggarwal, appearing on behalf of the respondent has produced on file photo stat copies of settlement and receipt also to the effect that matter in dispute has since been settled with the

workman. To this effect he has made statement also. Worker has not turned up despite of adjournment granted in the case and as such it is presumed that he has settled the matter in dispute and received the payment. The reference is accordingly, answered against the workman.

A. S. CHALIA,

Dated the 3rd December, 1986.

Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 3109, dated 17th December, 1986.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.

The 29th January, 1987

No. 9/6/86-6 Lab./11307.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s Executive Engineer, Fabrication Division, H.S.M.I.T.C. Workshop, Karnal.

**IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA**

Reference No. 1 of 1986

**SHRI SAAMSHER SINGH C/O MASTER KRISHAN LAL, BARAK NO. 18,
KAMP YAMUNA NAGAR, AND THE MANAGEMENT OF THE MESSRS
EXECUTIVE ENGINEER, FABRICATION DIVISION H.S.M.I.T.C.
WORKSHOP, KARNAL**

Present.—

None for workman.

None for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred disputes between Shri Shamsher Singh workman and Messrs H.S.M.I.T.C. Workshop, Karnal to this Court. The terms of the reference are as under :—

"Whether termination of services of Shri Shamsher Singh is just and correct, if not to what relief is he entitled ?"

Workman through his demand notice alleged that he joined service of respondent-management on 16th June, 1980 as a T-Mate on work-charged basis and he served the management up to 23rd June, 1981 thereafter he was told that his services have been transferred to Banswari (Rajasthan). He joined there and thereafter he was again transferred on 7th December, 1982 to Karnal. He reported for duty on 10th December, 1982 at Karnal but he was told that his services were terminated on 23rd June, 1981 and he was sent to Banswari as a fresh Candidate. So he prayed that this order of termination passed by Executive Engineer, Workshop Karnal is illegal and unjustified. He prayed that this order be set-aside and he be awarded relief of reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that respondent does not fall within the definition of industry under section 2(J) of Industrial Disputes Act, 1947. The application is bad

for non-joinder of proper and necessary parties. There is no relationship of master and servant between the parties. In fact, Division at Karnal came into existence with effect from 1st January, 1982, to the best of the knowledge of the respondent. Workman joined in the Pens stock Fabrication Division M.I.T.C. Banswari with effect from 24th June, 1981. It was further contended that workman was transferred by Executive Engineer in Charge Workshop Karnal to Banswari. So question of terminating services of the workman does not arise in fact he was transferred from Karnal to Banswari.

Workman filed replication through which he controverted the allegations of the respondent-management.

On the pleadings of the parties the issues were framed. The reference was posted for workman evidence. Four opportunities were afforded to workman to lead evidence but he failed to do so. On 4th November, 1986 the reference was again fixed for workman evidence but neither workman nor respondent-management appeared, so the reference is dismissed in default.

V. P. CHAUDHARY,

Dated the 4th November, 1986.

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 2970, dated the 7th November, 1986.

Forwarded (Four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer
Labour Court, Ambala.

No. 9/6/86-Lab/11309.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s Hardeep Singh, son of Shri Gurbachan Singh Ki Factory, Bhagatpura, Jagadhri.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 53 of 1986

SHRI SIDH NATH, SON OF SHRI RAM DEV C/O DR. SURINDER KUMAR SHARMA
INTUC OFFICE RAILWAY ROAD JAGADHARI AND THE MANAGEMENT OF THE
MESSRS HARDEEP SINGH, SON OF SHRI GURBACHAN SINGH KI FACTORY
BHAGATPURA

Present.—

Shri Surinder Sharma for workman.

AWARD.

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (c) of sub-section (i) of section 10 of Industrial Disputes Act, 1947, referred dispute between Shri Sidh Nath and Messrs Hardeep Singh Jagadhari to this Court. The terms of the reference are as under :—

“Whether termination of services of Shri Sidh Nath, is just and correct, if not to what relief is he entitled?”

Workman through his statement of claim alleged that he served the respondent-management as Buffman with effect from 1st March, 1983 to 30th May, 1985. His services were terminated on 30th May, 1985 in violation of provisions of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management was served but in spite of service it did not appear so *ex parte* proceedings were taken up against the respondent-management.

In spite of *ex parte* evidence Shri Sidh Nath workman examined himself as AW-1. He supported his claim by saying that he joined employment of respondent on 1st March, 1983. His services were terminated on 30th May, 1985 without issuing any notice without making payment of wages for notice

period, without making payment of any retrenchment compensation. He further deposed that when his services were terminated he used to get Rs. 900 per mensem. Since the day of his termination he has been unemployed. He further deposed that when he served demand notice he appeared before Conciliation Officer but the management, in spite of service absented there also. He tendered into evidence a letter which was endorsed to him by the Conciliation Officer. Conciliation proceedings are Ex. A-1 and A-2.

I have perused the *ex parte* evidence minutely and of the considered view that register letter was despatched to respondent management but did not accept that letter and got made a report from the postman that no such management existed. Thereafter process were again sent to Shri Hardeep Singh, son of Shri Gurbachan Singh Ki Factory, Jagadhari through Shri Manga Ram, Peon. This Process was also not accepted by the respondent management and there is a report of Shri Manga Ram, Peon that the process were not accepted by the respondent. So *ex parte* proceedings were correctly taken up against the management.

Workman deposed that he served the respondent management from 1st March, 1983 to 30th May, 1985. His services were terminated in violation of section 25 (F) at the time of termination he used to get Rs 900 per mensem. He also deposed that conciliation proceedings were also not attended by the management and this fact is evident from documents Ex. A-1 and A-2.

In view of above discussion it has become clear that the management terminated service of the workman in violation of section 25 (F). It knowingly remained away from this court, so it was proceeded *ex parte*, in these circumstances I hold that conduct of the respondent management is not above board appears to be *mala fide*, so I order the *ex parte* reinstatement of workman with continuity in service and with full back wages from the day of termination i. e. 30th May, 1985 and pass award regarding the dispute in hand accordingly.

V. P. CHAUDHARY,

Dated the 7th November, 1986.

Presiding Officer,
Labour Court, Ambala.

Endorsement No. 2975, dated 7th November, 1986.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

The 9th February, 1987

No. 9/3/87-6Lab./64.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Industrial and Allied Products Corporation, Plot No. 45, Sector 6, Faridabad.

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 350 of 1986

between

SHRI RAM KHILAWAN, WORKMAN AND THE RESPONDENT-MANAGEMENT OF
M/S INDUSTRIAL AND ALLIED PRODUCTS CORPORATION, PLOT NO. 45, SECTOR 6,
FARIDABAD

Present.

Shri K. L. Sharma, for the workman.

Shri K. P. Aggarwal, for the respondent.

AWARD

This reference under section 10(1)(c) of the Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—vide its endorsement No. ID/FD/50-86/35539-34, dated 24th September, 1986 to adjudicate upon the dispute of service, matter covered by second Schedule under section 7 of the said Act, arisen between Shri Ram Khilawan workman and the respondent-management of M/s. Industrial Allied and Products Corporation, Plot No.45, Sector 6, Faridabad. Accordingly, it has been registered as reference No. 350 of 1986.

2. Shri K.P. Aggarwal appearing on behalf of the respondent has produced on file photostat copies of settlement and receipt also to the effect that matter in dispute has since been settled with the workman. To this effect he has made statement also. Worker has not turned up despite of adjournment granted in the case and as such it is presumed that he has settled the matter in dispute and received the payment. The reference is accordingly answered against the workman.

A. S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.

Dated the 3rd December, 1986.

Endorsement No. 3108, dated the 10th December, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,

Presiding Officer,
Labour Court, Faridabad.

The 10th March, 1987

No. 9/2/87-6 Lab./1262.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s. Sirsa Central Co-operative Bank Ltd., Sirsa.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT,
ROHTAK.

Reference No. 80 of 1984.

between

SHRI HANUMAN SINGH, APPLICANT AND
THE MANAGEMENT OF M/S. SIRSA
CENTRAL CO-OPERATIVE BANK-
LTD., SIRSA

Shri S. S. Gupta, A. R., for the workman.
Shri K. R. Jindal, A. R., for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the

Industrial Disputes Act, 1947 (hereinafter referred to as the Act), the Governor of Haryana referred the following dispute between the workman S/Shri Hanuman Singh, Man Singh, Neki Ram, Sajjan Kumar, Mahender Singh, Jug Lal, Ram Niwas, Krishan Kumar, Wadhwa Ram, Kesri Chand, Chattar Singh, Ganda Ram, Harwant Singh, Nand Lal, Chechar Singh, Baldev Singh, Dalip Singh and Niranjan Singh and the management of M/s. Sirsa Central Co-operative Bank Ltd., Sirsa to this court, for adjudication,—vide Haryana Government Gazette Notification No. 20342-54, 20356-61, 20363-68, 20370-75, 20377-82, 20384-89, 20391-96, 20398-403, 20405-10, 20412-17, 20419-24, 20426-31, 20433-38, 20440-45, 20447-52, 20454-59, 20461-66, dated 25th May, 1984 and No. ID/48699-703, dated 16th September, 1983:—

Whether the termination of services of S/Shri Hanuman Singh, Man Singh, Neki Ram, Sajjan Kumar, Mahender Singh, Jug Lal, Ram Niwas, Krishan Kumar, Wadhwa Ram, Kesri Chand, Chattar Singh, Ganda Ram, Harwant Singh, Nand Lal, Chechar Singh, Baldev Singh, Dalip Singh and Niranjan Singh is justified and in order? If not, to what relief are they entitled?

2. After receipt of the orders of references, notices were issued to the parties. Both the parties appeared. Vide my order dated 4th December, 1984 references bearing numbers 150 of 1983 and 80 to 96 all of the year 1984 were ordered to be consolidated, because common question of law and facts were involved. I, further directed that the proceedings shall be recorded in reference No. 80 of 1984.

3. Out of thees 18 petitioners, eleven of them S/Shri Hanuman Singh, Man Singh, Neki Ram, Sajjan Kumar, Mahender Singh, Jug Lal, Ram Niwas, Krishan Kumar, Wadhwa Ram, Harwant Singh and Baldev Singh and five S/Shri Kesri Chand, Chattar Singh Ganda Ram, Chechhar Singh and Niranjan Singh and the remaining two S/Shri Nand Lal and Dalip Singh were appointed as Clerks/Guards/Peons, respectively in the respondent/bank in the year 1973 on purely temporary basis but the respondent choose to terminate their services unlawfully,— vide orders dated 4th April, 1975, which were passed in flagrant dis-regard of the provisions of section 25F of the said Act. *Inter alia*, it is alleged that the petitioners and others filed writ petition before the Hon'ble High Court of Punjab and Haryana against their termination, which was dismissed but the Hon'ble Court left on option open to that the petitioners to raise an industrial dispute under the provisions of the Industrial Disputes Act, 1947. All the petitioners have prayed for reinstatement with continuity of service and full back wages.

4. Separate replies were filed by the respondent in all these eighteen references but the running refrain of the same is that the applicants have no locus standi to file the present application and that the application is not maintainable and that the Labour Court has no jurisdiction to entertain these applications, which are barred by limitation and that the applicants are estopped from filing the same by their acts and conduct, on merits, it is admitted that the petitioners were employed as alleged but it is denied that they were employed on permanent basis. It is also alleged that none of the petitioners have put in mere than six months of continuous service at any given time. But it is admitted that their services were dispensed with as being no longer required. So, it is asserted that the orders of termination were legal and lawful and that the petitioners are not entitled to any relief as claimed. It is agonising to observe that these

replies have been drafted by a Lawyer of very good standing at Sirsa, who has failed to apply its mind, because these references have not been made to this Court by the Petitioners, but have been referred to this Court by the appropriate authority of the Government of Haryana for adjudication.

5. On the pleadings of the parties, the following issues were framed by me on 16th October, 1984:—

1. Whether the Petitioner has no locus standi to file the demand notice? OPR.
2. Whether the reference is bad in law? OPR.
3. Whether this Court has no jurisdiction to try this reference? OPR.
4. Whether the reference is barred by limitation? OPR.
5. Whether the Petitioner is estopped from filing the demand notice by his acts and conduct? OPR.

6. As per terms of reference.

6. After framing the issues, these references lingered on because of a stay by the Hon'ble High Court of Punjab and Haryana, which was vacated in the month of August, 1986.

7. In support of their claim, out of the eighteen Petitioners four S/Shri Wadhawa Ram as WW-1, Man Singh WW-2, Dalip Singh, WW-3, Niranjan Singh WW-4 appeared. The fifth witness examined by the workman was Subhash as WW-5. On the other hand, the management examined Shri S. P. Sharma, the then Managing Director of the respondent/Bank at Sirsa.

8. The learned authorised Representatives of the parties heard. My findings on the issues framed are as below:—

ISSUES No. 1 AND 2:

9. These issues were not pressed at the bar on behalf of the respondent. So, these are answered against the respondent.

ISSUE No. 3:

10. A plea was taken by the respondent that this Court has no jurisdiction to entertain these petitions directly under the said Act and could be entertained only after appropriate

references from the Government of Haryana. This plea has been taken by the respondent under the mistaken belief that these references have been filed by the petitioners directly in this Court. The fact is that these references have been made to this Court by the appropriate authority of the Government of Haryana. So, this plea is factually wrong and as such this issue is answered against the respondent.

ISSUE No. 4 AND 5:

11. These issues can be more appropriately discussed while granting relief, if any, to the Petitioners.

ISSUE No. 6:

12. Though, a plea was taken by the respondent that the petitioners did not have continuous service for more than six months at any given time, but no evidence was adduced by the respondent to substantiate this plea. Shri S. P. Sharma, Managing Director of the respondent appeared in the Court as MW-1. There is not any whisper in his statement that there was any break in the service of the petitioners. Even if, for the sake of arguments, it be believed that there was break in their services, in view of the dictum laid down in 1982 II LLJ 72 Santosh Gupta vs. State Bank of Patiala, short breaks in service will not break the continuity of employment of the petitioners. So, there is no scope for dispute that the petitioners remained in the employment of the respondent from 30th April, 1973 to 4th April 1975 (in the case of petitioner Dalip Singh, the date of termination as given in the demand notice is 13th May, 1975). So, all the petitioners have put in more than 240 days of actual work with the respondent on the date their services were terminated during the last 12 calendar months preceding the date of termination. Admittedly no prior one month's notice or retrenchment compensation was paid to them as envisaged under section 25F of the said Act. Shri S. P. Sharma, the then Managing Director of the respondent/Bank, who was examined as MW-1 stated that in toto about 70 persons were employed on the date the present petitioners were taken in employment but the services of only eighteen out of them have been terminated. He was also non-committal on the fact as to whether other employees except the petitioners were employed against the temporary vacancies. He also could not state as to how many persons were employed against temporary and how many against permanent vacancies. He

further admitted that after termination of services of the petitioners fresh appointments were made in the respondent/Bank. He was also candid in admitting that when fresh appointments were made no notices were given in the aggrieved petitioners. He was also non-committal on the fact as to whether the petitioners were the junior most in their cadre at the time when their services were dispensed with. So, in a way the respondent/Bank flouted all established norms of employment at the time of terminating the services of the petitioners. Established Rule of "first come last go" was also not adhered to. So, there is no escape from the conclusion that termination of services of the petitioners was absolutely illegal and unlawful being violative of the principles of section 25F and G of the said Act. So, orders of termination are set aside. Authorities cited on behalf of the petitioners were 1981 Lab. I. C. 1129 S. R. Papanna vs. Union of India and another and 1983 II LLJ 285 between Gaffor and others and Union of India and others.

13. And now, relief—which has many facets. Reinstatement or compensation in lieu of reinstatement, reinstatement with full or without back wages or part of back wages. There are three cadres of employees before this Court—Clerks, Guards and Peons. All are eighteen in number. To make the order less galling and more equitable. I called for the relevant data from the respondent bank regarding number of sanctioned posts in these cadres in the year 1975 (when the petitioners were ousted) and in the month of January, 1987 and vacancies if any. The relevant data has been furnished. The number of sanctioned posts of Clerks has risen from 40 to 80, Guards from 16 to 23 and Peons from 16 to 33 and a single vacancy was reported in the cadre of Peon, which incidentally may be filled up before this order reaches the print.

14. The petitioners had put in hardly less than three years of service when they were illegally shown the door. They remained in legal dol-drum for the last more than eleven years; waging relentless battle at various legal forums. After being ousted, they were rightly or wrongly advised to move the Hon'ble High Court of Punjab and Haryana through a writ Petition. They did. The same ended in failure after seven years on 19th November, 1982. Then they raised demand notices with the Labour Department in the month of December, 1982. Mercifully their cases were referred to the Labour

Court in the month of May, 1984 after crossing various hurdles. Final decision in these references were stayed by the Hon'ble High Court of Punjab and Haryana when vires of sections 102 and 128 of the Haryana Co-operative Societies Act, 1984, were challenged. Stay has since been vacated.

15. It is a common knowledge that employees are appointed or ousted in such Institutions (as the respondent bank) at the behest of the politicians in power, who have scant regard for Rural and regulations. Such employees are rendered rudderless when their heroes are humbled at the hustings. The Petitioners seems to have met the same fate. Otherwise Shri S. P. Sharma the then Managing Director of the respondent bank could give no reasons as to why services of the petitioners were terminated. The petitioners must have done lot of cliff hanging before they reach the plateau. Now, the question would be as to whether they can be denied the rest they deserve. On behalf of the respondent, it was vehemently contended that after a lapse of eleven years it will not be fair and proper to reinstate the petitioners, because in case the petitioners are ordered in, the respondent bank will have to order out an equal number. Authority relied upon was AIR 1959 S.C. 1217 v/s. *Shalimar Works Ltd. v/s Their Workmen*. This authority was handed out on facts which were entirely different from the facts of the case in hand. In the authority under reference, even the petitioners were not interested in reinstatement. Reference in that case was vague inasmuch as no names of discharged workmen were given. In that situation, their Lordships held that order refusing relief of reinstatement was justified. In the present case, petitioners are keen to be interested. They have fought for it for the last more than eleven years. Their ouster was absolutely illegal and unlawful and void ab initio. So, they have got to be reinstated because the unfortunate employees who may be terminated in pursuance of this order, well knew their fate because their confirmation was withheld by the respondent bank awaiting verdict of the Court. So, the petitioners are ordered to be reinstated.

16. Question of back wages survives. On behalf of the petitioners 1981 LLN Vol. II 23 between *Mohan Lal and Bharat Electronics* and 1978 LLJ Vol. II 474 between *Hindustan Tin Works Ltd.*, and its employees were cited. In the 1981 authority referred to above their Lordships of the Hon'ble Supreme Court held that

where termination is illegally specially where there is an ineffective order of retrenchment, there is an ineffective order of retrenchment, there is neither termination nor cessation of service and a declaration follows that the workman concerned would continue to be in service with all consequential benefits. This is the normal accepted approach of the Courts in the field of social justice. Similarly in the 1978 authority referred to above, his Lordship held that the Court can sculpture the relief to suit needs of the matter in hand and in the very nature of things, there cannot be a straight jacket formula for awarding relief of back wages. It was further held that all relevant consideration will enter the verdict. His Lordship continued and I quote "more or less, it would be a motion addressed to the discretion of the Tribunal. Full back wages would be the normal rule and the party objecting to it must establish the circumstances necessitating the departure." In case of reinstatement with full back wages an employee is paid for no work done. Had the offending order, not been passed, the respondent bank would have been spared from this needless financial burden. Taken into consideration the plaint attitude of the bureaucracy which is out to pander to the wishes of the politicians, concept or accountability is being given legal sanction and as per the newspapers reports, a comprehensive legislation is already on the anvil and is likely to be introduced in the coming session of the Parliament. So, looking to the fact, that the orders of termination were patently illegal and unlawful and the petitioners were in legal wilderness, which was not of their choice, they cannot be denied the benefits of back wages. So, all the eighteen petitioners are ordered to be reinstated with continuity of service including all incidental benefits and with full back wages. References are answered and returned accordingly with no order as to cost. A copy of this order be placed upon the files of reference number 150 of 83 and 81 to 95 all of the year 1984.

B. P. JINDAL,

Dated the 24th January, 1987.

Presiding Officer,

Labour Court, Rohtak.

Endorsement No. 80-84/339, dated the
17th February, 1987.

Endorsement No. 80-84/339, dated the 17th February, 1987.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

KULWANT SINGH,
Secretary to Government, Haryana,
Labour & Employment Department.

श्रम विभाग

आदेश

दिनांक 13 जनवरी, 1987

सं० ओ० वि०/फरीदाबाद/187-86/1722.—चूंकि हरियाणा के राज्यपाल की राय है कि मैं० आईशर ट्रैक्टर लि०, प्लाट नं० 59, इण्डस्ट्रीयल एंडरिया, एन.आई.टी., फरीदाबाद, के श्रमिक प्रधान, आईशर गुडर्थ स्टाफ वैन्फैयर एसोसिएशन, एन.आई.टी., फरीदाबाद तथा प्रबन्धकों के मध्य इसके बाद लिखित मामले के सम्बन्ध में कोई श्रीदोगिक विवाद है;

और चूंकि राज्यपाल हरियाणा इस विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना चाहती थी समझते हैं;

इसलिए, अब, श्रीदोगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (घ) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुए हरियाणा के राज्यपाल इसके द्वारा उक्त अधिनियम की धारा 7-क के अधीन गठित श्रीदोगिक अधिकरण, हरियाणा, फरीदाबाद को नीचे विनिर्दिष्ट मामला जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादप्रस्त मामला/मामले है अथवा विवाद से सुसंगत या सम्बन्धित मामला/मामले है न्यायनिर्णय एवं पंचाट छः मास में देने हेतु निर्दिष्ट करते हैं:—

क्या श्री दर्शन लाल कुमार, ड्राइवर को प्रबन्धकों द्वारा दो दिन के स्पेशन की हाजा एवं मार्च 1985 से जुलाई 1986 तक ट्रैक्टर प्रोडक्शन तथा प्रोडेक्टिविटी बेनीफिट से वंचित किया जाना न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का हकदार है ?

कुलबन्त सिंह,

वित्तायुक्त एवं सचिव, हरियाणा सरकार,
श्रम तथा रोजगार विभाग।

दिनांक 15 जनवरी, 1987

सं० ओ० वि०/एफ०डी०/241-86/1973.—चूंकि हरियाणा के राज्यपाल की राय है कि मैं० एस.जे. निटिंग एण्ड फिनिशिंग 13/7, भयुरा रोड, फरीदाबाद, के श्रमिक श्री राम कुमार, पुत्र श्री लक्ष्मन, मार्फत हिन्द मजदूर सभा, 29 शहीद चौक, फरीदाबाद तथा उसके प्रबन्धकों के मध्य इस में इसके बाद लिखित मामले में कोई श्रीदोगिक विवाद है;

और चूंकि हरियाणा के राज्यपाल विवाद को न्यायनिर्णय हेतु निर्दिष्ट करना चाहती थी समझते हैं;

इसलिये, अब, श्रीदोगिक विवाद अधिनियम, 1947 की धारा 10 की उपधारा (1) के खण्ड (ग) द्वारा प्रदान की गई शक्तियों का प्रयोग करते हुये हरियाणा के राज्यपाल इसके द्वारा सरकारी अधिसूचना सं. 5415-3-अम-6/15254, दिनांक 20 जून, 1978 के साथ पढ़ते हुए अधिसूचना सं. 11495-जी-श्रम 57/11245, दिनांक 7 फरवरी, 1958 द्वारा उक्त अधिसूचना की धारा 7 के अधीन गठित श्रम न्यायालय, फरीदाबाद, को विवादप्रस्त या उससे सुसंगत या उससे सम्बन्धित नीचे लिखा मामला न्यायनिर्णय एवं पंचाट तीन मास में देने हेतु निर्दिष्ट करते हैं जो कि उक्त प्रबन्धकों तथा श्रमिक के बीच या तो विवादप्रस्त मामला है या उक्त विवाद से सुसंगत ग्रथवा सम्बन्धित मामला है :—

क्या श्री राम कुमार की सेवाओं का समापन न्यायोचित तथा ठीक है ? यदि नहीं, तो वह किस राहत का हकदार है ?